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General Assembly

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Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime

Eighth session
Vienna, 21 February-3 March 2000
Agenda item 3
Consideration of the revised draft United Nations Convention against Transnational Organized Crime, with particular emphasis on articles 2, 2 *bis* (subparagraph (a) only), 4, 4 *bis*, 4 *ter*, 4 *quater*, 7, 7 *bis*, 7 *ter*, 17, 17 *bis*, 18, 18 *bis* and 18 *ter*

Proposals and contributions

Recommendations of informal working group on article 4, paragraph 1 bis, of the revised draft United Nations Convention against Transnational Organized Crime, convened during the seventh session of the Ad Hoc Committee

The informal working group on article 4, paragraph 1 *bis*, convened during the seventh session of the Ad Hoc Committee submits the following amended text for article 4, paragraph 2, for discussion by the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime (the current text of paragraph 1 *bis* would be deleted):

"2. For purposes of implementing or applying paragraph 1 of this article:

"(a) States Parties shall seek to apply paragraph 1 to the widest range of predicate offences;

"(b) States Parties shall include as predicate offences:

(i) [All serious crimes] [All serious crimes involving an organized criminal group and the offences established in articles 3, 4 *ter* and 17 *bis* of this Convention];[1] or

[1] Depending on the outcome of discussions on article 2, the latter bracketed words might be replaced with the words "crimes covered by this Convention".

(ii) If all serious crimes are not included, at a minimum, a comprehensive range of serious offences, including all offences associated with organized criminal groups and all offences that generate significant proceeds;

"(c) States Parties implementing subparagraph (b) (ii) above shall furnish copies or a description of their laws to the Secretary-General of the United Nations;

"(d) [*Still to be addressed in the issue of foreign predicate offences; see the current text of paragraph 2 (a).*];

"(e) If required by the basic principles of a State Party's penal law, then it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence;

"(f) Knowledge, intent or purpose required as an element of an offence set forth in that paragraph may be inferred from objective factual circumstances.[2]"

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[2] Current text of paragraph 2 (b).

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Proposals and contributions received from Governments

United States of America: amendments to the revised draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime

Article 2: Definition

1. It is proposed that the following new paragraph be inserted between paragraphs (a) and (b) of article 2:

> "'Broker': Any person who acts as an agent for others in negotiating or arranging contracts, purchases, sales or transfers of firearms, their parts and components and ammunition in return for a fee, commission or other consideration."

Article 5: Criminalization

2. It is proposed that the following new subparagraph be added to the end of paragraph 1 of article 5:

> "Acting as a broker as defined in this Protocol without registering or obtaining a licence or authorization in accordance with article 18 *bis* of this Protocol."

Article 18 *bis*: Registration and licensing of brokers [traders and forwarders]

3. It is proposed that the existing language of article 18 *bis* be amended to read as follows:

> "... shall take steps to require brokers:
>
> "(a) To register with their country of nationality and with any country where the person acts as a broker as defined in this Protocol; and

"(b) To obtain for their transactions a licence or authorization from the country where the person acts as a broker as defined in this Protocol."

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Proposals and contributions received from Governments

Turkey: amendments to article 2 of the revised draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime

Article 2: Definitions

Turkey proposes the following amendment to article 2 of the revised draft Protocol:

"(a) 'Ammunition':

"(i) Cartridge: the complete round or its components, including cartridge cases, primers, propellant powder, bullets or projectiles that are used in a firearm, [provided that those components are themselves subject to authorization in the respective State Party];

"(ii) Any other weapon or destructive device such as an explosive, incendiary bomb, grenade, rocket, rocket launcher, missile, missile system or mine."

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